



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/453,934	05/17/2000	Tetsuro Motoyama	5244-0121-2	7299
22850	7590	04/20/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			MOSLEHI, FARHOOD	
		ART UNIT		PAPER NUMBER
		2154		/ /
DATE MAILED: 04/20/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/453,934	MOTOYAMA ET AL.	
	Examiner Farhood Moslehi	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 February 2004.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>(1)</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-19 and newly claim 20 are presented for examination.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-4, 7-12 and 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Hunt et al. (6,539,422) (hereinafter Hunt).
4. As per claim 1, Hunt demonstrates a computer product comprising a computer storage medium and a computer program code mechanism embedded in the computer storage medium for causing a computer to control a protocol used for data communications between a remote receiver and at least one of a device, an appliance, an application and an application unit, the computer program code mechanism comprising: a first computer code device configured to provide plural communications

protocols capable of providing data transfer (e.g. col. 3, lines 20-23); a second computer code device configured to select a first protocol of the plural communications protocols to transfer data between the remote receiver and the at least one of a device, an appliance, an application and an application unit (e.g. col. 4, lines 13-23); a third computer code device configured to select a second protocol of the plural communications protocols to transfer data between the remote receiver and the at least one of a device, an appliance, an application and an application unit (e.g. col. 3, lines 60-67); a fourth computer code device configured to collect events at the at least one of a device, an appliance, an application and an application unit e.g. col. 2, lines 9-19); a fifth computer code device configured to attempt to transfer the collected events between the remote receiver and the at least one of a device, an appliance, an application and an application unit using the first protocol (e.g. col.20, lines 17-37); and a sixth computer code device configured to attempt to transfer the collected events between the remote receiver and the at least one of a device, an appliance, an application and an application unit using the second protocol after attempting to transfer the collected events between the remote receiver and the at least one of a device, an appliance, an application and an application unit using the first protocol (e.g. Abstract & col. 20, lines 17-37).

5. As per claim 8, it is rejected for similar reason as stated above.
6. As per claim 2, Hunt demonstrates a computer product wherein the first computer code device comprises a library of code shared between first and second applications (e.g. col. 19, lines 28-35).

7. As per claim 9, it is rejected for the similar reason as stated above.
8. As per claim 3, Hunt demonstrates a computer product wherein the first computer code device comprises a dynamically linked library of code shared between first and second applications (e.g. col. 19, lines 28-35).
9. As per claim 10, it is rejected for similar reason as stated above.
10. As per claim 4, Hunt demonstrates a computer product wherein the plural communications protocols comprise at least of (1) a store and forward protocol and (2) a direct connection protocol (col. 20, lines 60-68). The SNMP subagent examining the OID table and locating the correct subroutine to call in response to the SNMP request simulates the store and forward part of the communications.
11. As per claim 7, Hunt demonstrates a computer product wherein the sixth computer device comprises a seventh computer code device configured to transfer the collected events using the second protocol in order to increase redundancy (e.g. col. 23, lines 31-26).
12. As per claim 14, it is rejected for similar reason as stated above.
13. As per claim 11, Hunt demonstrates a computer product wherein the first plural communications formats comprise at least two formats selected from the group consisting of: binary, text, hypertext markup language (HTML), and extended markup language (XML) (e.g. col. 3, lines 45-55).
14. As per claim 12, Hunt demonstrates a computer product wherein at least one of the plural communications formats comprises a compressed format (e.g. Abstract). UDP and UDP+ are considered compressed communications formats relative to TCP/IP.

15. As per claim 15, Hunt demonstrates a computer product further comprising: a seventh computer code device configured to provide plural communications protocols capable of providing data transfer; and an eighth computer code device configured to select a first protocol of the plural communications protocols to transfer data between the remote receiver and the at least one of a device, an appliance, an application and an application unit, wherein the fifth computer code device is further configured to transfer the collected events with the first protocol using the first format (e.g. col. 2, lines 62-65 and Figure 5).

16. As per claim 16 and 17, they are rejected for similar reasons as stated above.

17. Claims 18 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Spence et al. (6,487,581) (hereinafter Spence).

18. As per claim 18, Spence discusses a computer computer-implemented method for causing a computer to control a protocol used for data communication to a remote receiver, comprising: providing plural communications protocols capable of transferring data; selecting a first protocol of the plural communications protocols to transfer data between the remote receiver and at least one of a device, an appliance, an application and an application unit (e.g. col. 3, lines 1-15); selecting a second protocol of the plural communications protocols to transfer data between the remote receiver and the at least one of a device, an appliance, an application and an application unit (e.g. col. 4, lines 17-24); performing a first attempt to transfer the collected events between the remote receiver and the at least one of a device, an appliance, an application and an application unit using the first protocol (e.g. col. 5, lines 15-25); and performing a

second attempt to transfer the collected events between the remote receiver and the at least one of a device, an appliance, an application and an application unit using the second protocol after the first attempt (e.g. col. 4, lines 17-36 and figure 3).

19. As per claim 19, it is rejected for a similar reason as stated above.
20. As per claim 20, Spence discusses the computer computer-implemented method wherein the step of performing a first attempt to transfer the collected events comprises performing an attempt using a first protocol (e.g. col. 6, lines 28-42).
21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt in view of Yamane et al. (2003/0041093) (hereinafter Yamane).
23. Hunt does not discuss a computer program product wherein the sixth computer device comprises a seventh computer code device configured to check for a transmission failure before transferring the collected events using the second protocol. Yamane teaches using a second protocol to resend information after a transmission failure (e.g. page 7, col. 2, lines 38-50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Hunt with Yamane because it would provide a computer code device configured to check for a transmission failure before transferring the collected events using the second protocol.

24. As per claim 13, it is rejected for the similar reason as stated above.
25. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt in view of "Official Notice".
26. As per claim 5, Hunt does not specifically show the plural communications protocols comprise (1) a simple mail transfer protocol. "Official Notice" is taken that simple mail transfer protocol is another part of the TCP/IP suit of protocols and any network that supports HTTP and SNMP can also support SMTP. The advantage of SMTP lies on the fact that it is an application layer protocol, thus it is easier integrated into other applications. Moreover SMTP is the standard protocol for electronic mail communications. It would have been obvious to one of ordinary skill in the art to include SMTP as another communications protocol because it would provide for a computer program wherein the plural communications protocols comprise (1) a simple mail transfer protocol and (2) at least one of (a) a file transfer protocol and (b) a hypertext transfer protocol (e.g. Abstract).
27. Applicant's arguments filed 2/2/2004 have been fully considered but are not persuasive.
28. In the remarks, applicants argued in substance that (1) it is unclear which of the various computer components the Office Action is alleging corresponds to this element.
29. As to point (1) the examiner disagrees because Hunt teaches that the system management architecture uses Java applets as the user interface and SNMP to communicate configuration and control requests to ADC device platforms (e.g. col. 4, lines 24-30).

30. In the remarks, applicants argued in substance that (2) Col. 4 does not disclose that an additional format is used by the ADCs.

31. As to point (2) the examiner disagrees because Hunt explains that the ADC is a device platform with a separate communications interface. The communications interface can be written or developed to accept any and all protocols (e.g. col. 4, lines 45-50).

32. In the remarks, applicants argued in substance that (3) the 422 patent does not disclose the ADCs utilizing either plural communication protocols or formats.

33. As to point (3) the examiner disagrees because Hunt explains the various formats and protocols that are utilized by ADCs platform (e.g. col. 12, lines 15-25).

34. In the remarks, applicants argued in substance that (4) plural protocols are not used by a single device, appliance, application or application unit.

35. As to point (4) the examiner disagrees because Spence teaches about an event server that interacts with multiple clients using different protocols (e.g. col. 4, lines 17-35).

Conclusion

36. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farhood Moslehi whose telephone number is 703-305-8646. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 703-305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

fm



JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100